

AFFIDAVIT OF DAVID J. PIAZZA

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

David J. Piazza, being first duly sworn upon his oath, deposes and states as follows:

1. I am over the age of majority and am competent to testify to all matters set forth in this Affidavit.

2. I am employed by the Southwest Region School District (District) as the Information Systems Coordinator for the District. In the course and scope of my duties, I have been primarily responsible for managing the District's E-rate program, including the submission of Form 471 and Form 486 documents and applications.

3. On December 26, 2002, I logged into the School and Libraries Division (SLD) website to submit a Form 486 certification for a telecommunications service which had come on line on December 4. This was the seventh of seven services that had been approved for funding. The receipt of the other six services had been previously submitted in a Form 486 sent by mail in October, 2002. I had not previously submitted an electronic version of the form.

4. It was my understanding that SLD preferred that school districts use the electronic form to reduce processing costs. It was my understanding that electronic Form 486 applications would be treated at least as favorably as paper Form 486 applications. I completed the electronic Form 486 in accordance with the instructions on


the website. I used the form identifier Form "486Y5-2" to indicate that it was the District's second Form 486 submitted for that year. I used my correct user identification and pin number. Every indication from the form and the website was that the application had been properly submitted. I received no "error" or other message which would indicate there was any problem with the Form 486 I had submitted.

5. While I was aware that it was customary for SLD to send Form 486 confirmations after they had been received, it had also been my experience that SLD was often slow in responding to correspondence and communications or send confirmations. Thus, while I did not receive a timely Form 486 confirmation from SLD, I believed, given the apparently successful completion of the electronic form and previous delays I had experienced in receiving return correspondence from SLD, that there was no problem with the Form 486 I had submitted on December 26, 2002.

6. I did not learn that the Form 486 was not on file until months later when I was contacted by the District's service provider which had not received payment. I immediately took steps to file a replacement paper Form 486 as directed by the SLD's service bureau at 1-888-203-8100 with the hope that it would be deemed timely filed as a result of these circumstances. I would note that our paper Form 486 was submitted on August 28th and we did not receive SLD's notification letter confirming receipt until November 24, 2003. This delay of approximately three months was consistent with my prior experience with SLD. This also explains why I was not immediately concerned when we did not receive a Form 486 confirmation after our submission in December.

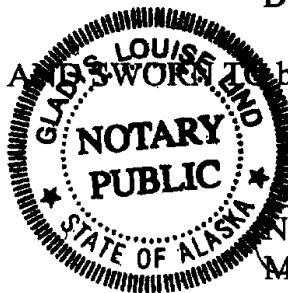
7. It is my understanding that, had the District submitted the Form 486 on paper, it would have been returned and the District could have submitted a corrected application in a timely fashion. However, the SLD denied the District's application due to this error without providing any notice to the District of the deficiency or providing any opportunity to correct it. I believe this is fundamentally unfair, particularly in light of the representations made by SLD about the electronic Form 486 on their website and on the application form itself. Nothing on the website or the application gave any indication that the SLD would essentially throw away improperly filed electronic Form 486 forms without notifying the applicant. If the District is not granted relief in this case, I do not believe the District would ever consider using the electronic filing system.

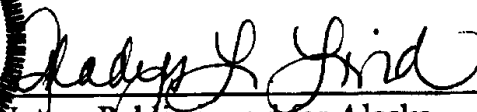
DATED this 10th day of June, 2004.



David J. Piazza

SUBSCRIBED AND SWORN TO before me this 10th day of June, 2004.





Notary Public in and for Alaska
My commission expires: 12/04/04

Schools and Libraries Universal Service Receipt of Service Confirmation Form

FCC Form 486: To be completed by the Billed Entity
Please read instructions before completing.

Estimated Average Burden Hours For First Submission: 15.0 hours
For Subsequent Submissions: 1.5 hours

Applicant's Form Identifier

48645-3

(Create your own code to identify THIS Form 486.)

Block 1: Billed Entity Information

1. Name of Billed Entity

SOUTHWEST REGION SCHOOL DIST

2. Billed Entity Number

145573

3. Funding Year

2002

4. Complete Mailing Address of Billed Entity

Street Address, P.O. Box or Route Number

PO BOX 90

City

DILLINGHAM

State

Zip Code

AK 99576

Telephone Number

Extension

Fax Number

907 842 5287 323

907 842 5428

Email Address

Piazzad@swrsd.org



Entity Number 145573 Applicant's Form Identifier 48675-3
Contact Person David J Piazza Phone Number 907 842 5287

5. Contact Person Information

Contact Person Name

DAVID J PIAZZA

Street Address, P.O. Box or Route Number

PO BOX 90

City

DILLINGHAM

State Zip Code

AK 99576

Check the box next to the preferred mode of contact. (At least one box MUST be checked.)

Telephone Number

Extension

☒ Fax Number

907 842 5287 323

907 842 5428

Email Address

piazza@swrsd.org

Persons willfully making false statements on this form can be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

NOTICE: The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended, 47 U.S.C. § 254. The data in the form will be used to inform the Schools and Libraries Division of the Universal Service Administrative Company that a billed entity, and/or the schools and libraries that it represents, has begun or has planned to begin to receive service after receiving a funding commitment approval pursuant to FCC Form 471.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or potential violation of an FCC statute, regulation, rule or order, your application may be referred to the federal, state, or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government, is a party in a proceeding before the body or has an interest in the proceeding. In addition, consistent with the Communications Act of 1934, FCC regulations and orders, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law, information provided in or submitted with this form or in response to subsequent inquiries may be disclosed to the public.

If you do not provide the information requested on the form, your application may be returned without action or your application may be delayed.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 15.0 hours for the first submission and 1.5 hours for subsequent submissions, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden, to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, D.C. 20554.



Entity Number	<u>145573</u>	Applicant's Form Identifier	<u>48675-3</u>
Contact Person	<u>David J Piazza</u>	Phone Number	<u>907 842 5287</u>

Block 2: Early Filing Information and CIPA Waiver Requests

6a. Early Filing

CHECK THE BOX BELOW IF THE FRNS ON THIS FORM 486 ARE FOR SERVICES STARTING *ON OR BEFORE* JULY 31 OF THE FUNDING YEAR.

The Funding Requests listed in Block 3 have been approved by SLD as shown in my Funding Commitment Decision Letter (FCDL). I have confirmed with the service provider(s) featured in those Funding Requests that these services will start on or before July 31 of the Funding Year.

Remember: Early filing using Item 6a is an option if and ONLY if services will start within the month of July of the relevant Funding Year, all relevant certifications in Block 4 can be accurately made, and the Form 486 is postmarked on or before July 31 of the Funding Year.

6b. CIPA Waiver

CHECK THE BOX BELOW IF YOU ARE REQUESTING A WAIVER OF CIPA REQUIREMENTS FOR THE SECOND FUNDING YEAR AFTER APRIL 20, 2001 IN WHICH YOU HAVE APPLIED FOR DISCOUNTS IF YOU AS THE BILLED ENTITY ARE THE ADMINISTRATIVE AUTHORITY.

I am providing notification that, as of the date of the start of discounted services, I am unable to make the certifications required by the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), because my state or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification(s) otherwise required. I certify that the schools or libraries represented in the Funding Request Number(s) on this Form 486 will be brought into compliance with the CIPA requirements before the start of the Third Funding Year after April 20, 2001 in which they apply for discounts.

6c. CIPA Waiver for Libraries for Funding Year 2004

CHECK THE BOX BELOW IF YOU ARE REQUESTING A WAIVER OF CIPA REQUIREMENTS FOR FUNDING YEAR 2004 IF YOU AS THE BILLED ENTITY ARE THE ADMINISTRATIVE AUTHORITY FOR THE LIBRARY(IES) REPRESENTED ON THIS FORM 486.

I am providing notification that, as of the date of the start of discounted services in Funding Year 2004, I am unable to make the certifications required by the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), because my state or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification(s) otherwise required. I certify that the libraries represented in the Funding Request Number(s) on this Form 486 will be brought into compliance with the CIPA requirements before the start of the Funding Year 2005.



Entity Number <u>145573</u>	Applicant's Form Identifier <u>48645-3</u>
Contact Person <u>David J Piazza</u>	Phone Number <u>907 842 5287</u>

Block 3: Service Information

7. Please provide the following information for each Form 471 Block 5 (Discount Funding Request) item for which the Billed Entity is indicating that the named service provider may begin submitting invoices to SLD. You will need your FCDL for some of the information required below.

Remember: The FRNs listed below must be from the same Funding Year as is listed in Block 1, Item 3.

If you need additional pages, please label them 4A, 4B, 4C, etc. and indicate the number in the space provided here: Page 4 12

	(A) 471 Application Number From FCDL	(B) Funding Request Number (FRN) From FCDL	(C) Billing Account Number (if contained on your FCDL)	(D) Service Provider Name From FCDL	(E) Service Provider Identification Number (SPIN) From FCDL	(F) Funding Year Service Sta Date* (Earliest Date that Discounts Will Begin) (*Cannot be before July 1 of the Funding Year for which you are requesting discounts.)
1	0000311369	814327	SAC05-0373	GCI Communications	143001199	12042002
2						
3						
4						
5						
6						
7						
8						



Entity Number

145573

Applicant's Form Identifier

48645-3

Contact Person

David J Piazza

Phone Number

907 842 5287

Block 4: Certifications and Signature

8. I certify that the technology plan(s) for the services received as indicated on this Form 486 have been approved as necessary. Fill in the name(s) of the organization(s) that reviewed and approved a technology plan for any eligible entity that is receiving services covered under this form; attach an additional list if necessary. If ALL of the FRNs listed herein are for basic telephone service only, write in "none" here.

STATE OF ALASKA DEPARTMENT OF
EDUCATION & EARLY DEVELOPMENT

9. I certify that the services listed on this Form 486 have been, are planned to be, or are being provided to all or some of the eligible entities identified in the Form 471 application(s) cited above. I certify that there are signed contracts covering all of the services listed on this Form 486 except for those services provided under tariff or month-to-month arrangements. I certify that I am authorized to submit this receipt of service confirmation on behalf of the above-named Billed Entity, that I have examined this request, and that, to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

10. I understand that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the services receive an appropriate share of benefits from those services. I recognize that I may be audited pursuant to this application and will retain for five years any and all records, including Forms 479 where required, that I rely upon to complete this form and, if audited, will make available to the Administrator such records.

NOTES FOR COMPLETING THE CERTIFICATIONS IN ITEM 11

A Billed Entity who is the Administrative Authority must check Item 11a or 11b or 11c. Check only ONE item. If the Billed Entity is not the Administrative Authority, skip to Item 11d.

A Billed Entity who represents one or more Administrative Authorities must check Item 11d or 11e. (See the Form 486 Instructions for Item 11, "Special Notes for Billed Entities Who Represent One or More Administrative Authorities.")

A Billed Entity who represents one or more Administrative Authorities in Funding Years after Funding Year 2001 and who checks Item 11d must check Item 11f or 11g. (See the Form 486 Instructions for Item 11, "Special Notes for Billed Entities Who Represent One or More Administrative Authorities.")

IF THIS FORM PERTAINS TO A FUNDING YEAR PRIOR TO FUNDING YEAR 2001 (THE FUNDING YEAR BEGINNING JULY 1, 2001), SKIP TO ITEM 12.



Entity Number 145573 Applicant's Form Identifier 48675-3
Contact Person David J Piazza Phone Number 907 842 5287

11. FOR A BILLED ENTITY WHO IS THE ADMINISTRATIVE AUTHORITY:

I certify that as of the date of the start of discounted services:

- a. ☒ the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 has (have) complied with the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l).
- b. ☐ pursuant to the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), the recipient(s) of service represented in the Funding Request Number(s) on this Form 486:
- (FOR SCHOOLS and FOR LIBRARIES IN THE FIRST FUNDING YEAR FOR PURPOSES OF CIPA) is (are) undertaking such actions, including any necessary procurement procedures, to comply with the requirements of CIPA for the next funding year, but has (have) not completed all requirements of CIPA for this funding year.
- (FOR FUNDING YEAR 2003 ONLY: FOR LIBRARIES IN THE SECOND OR THIRD FUNDING YEAR FOR PURPOSES OF CIPA) is (are) in compliance with the requirements of CIPA under 47 U.S.C. § 254(l) and undertaking such actions, including any necessary procurement procedures, to comply with the requirements of CIPA under 47 U.S.C. § 254(h) for the next funding year.
- c. ☐ the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) receiving discount services only for telecommunications services.

FOR A BILLED ENTITY WHO REPRESENTS ONE OR MORE ADMINISTRATIVE AUTHORITIES¹:

- d. ☐ I certify as the Billed Entity for the consortium that I have collected duly completed and signed Forms 479 from all eligible members of the consortium.
- e. ☐ I certify as the Billed Entity for the consortium that the only services that have been approved for discounts under the universal service support mechanism on behalf of eligible members of the consortium are telecommunications services, and therefore the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. § 254(h) and (l), do not apply.

For Funding Years after Funding Year 2001: If you checked Item 11d above, check ONE of the boxes below:

- f. ☐ I certify that some or all of the eligible consortium members checked Form 479 Item 6d or Item 6e to seek a CIPA Waiver, and upon request from the Administrator I can provide this information; OR
- g. ☐ I certify that no eligible consortium members checked Form 479 Item 6d or Item 6e to seek a CIPA Waiver.

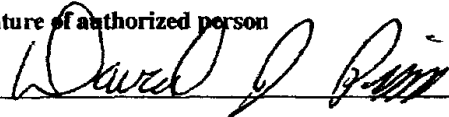
The certification language above is not intended to fully set forth or explain all the requirements of the statute.

¹ See the Form 486 Instructions for Item 11, "Special Notes for Billed Entities Who Represent One or More Administrative Authorities."



Entity Number	145573	Applicant's Form Identifier	48615-3
Contact Person	David J PIAZZA	Phone Number	907 842 5287

I certify that I am authorized to submit this receipt of service confirmation on behalf of the above-named Billed Entity, that I have examined this request, and that, to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

12. Signature of authorized person	13. Date	
	08282003	
14. Printed name of authorized person		
DAVID J PIAZZA		
15. Title or position of authorized person		
TECHNOLOGY COORDINATOR		
16a. Street Address, P.O. Box, or Route Number		
PO BOX 90		
City		
DILLINGHAM		
State	Zip Code	
AK	99576	
16b. Telephone number of authorized person	Extension	16c. Fax number of authorized person
907 842 5287	323	907 842 5428
16d. Email address of authorized person		
piazza@swrsc.org		

Please submit this form to:

SLD-Form 486
P. O. Box 7026
Lawrence, Kansas 66044-7026

For express delivery services or U.S. Postal Service, Return Receipt Requested, send this form to:

SLD-Form 486
c/o Ms. Smith
3833 Greenway Drive
Lawrence, Kansas 66046
888-203-8100





Southwest Region School District

P.O. Box 90
574 Kenny Wren Road
Dillingham, AK 99576

(907) 842-5287 • Phone
(907) 842-5428 • Fax

David J. Piazza, Information Systems Coordinator
Southwest Region School District
P.O. Box 90
Dillingham, AK 99576
(907) 842-5287 Voice
(907) 842-8223 Direct
(907) 842-5428 FAX
piazzad@swrsd.org

November 25, 2003

Letter of Appeal
Schools and Libraries Division
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

Dear Schools and Libraries Division,

This letter is a direct appeal of your decision contained on the FORM 486 NOTIFICATION LETTER (Funding Year 2002: 07/01/2002 – 06/30/2003) dated November 19, 2003, RE: Form 486 Application Number 241295, Applicant's Form 486 Identifier; 486Y5-3, Billed Entity Name: Southwest Region School Dist, Billed Entity Number: 145573. Your decision to change the Service Start Date and Adjusted Funding Commitment for FRN 814327 was not based on a complete set of facts due to SLD internal paperwork processing errors in regard to a Southwest Region School District's previous Form 486 submission.

HERE ARE THE FACTS OF THE APPEAL:

On October 7, 2002, Southwest Region Schools correctly submitted a signed and certified Form 486 by Express Mail, Applicant's Form Identifier 486Y5-1 [SEE EXHIBIT #1]. Southwest Region Schools correctly omitted FRN 814327 as the vendor had not begun service for that item. The district received the SLD's Form 486 Notification letter dated November 13, 2002, assigning this Form 486 the Application Number 195548.

On December 4, 2002 the vendor began to deliver in full the service requested on FRN 814327. The service was maintained by the vendor and utilized by Southwest Region Schools for the remainder of the funding period.

On December 26, 2002, Southwest Region Schools submitted an additional Form 486 on-line, Applicant's Form Identifier 486Y5-2 to notify the SLD that service for the omitted FRN had begun on December 4, 2002 well within the 120-day form processing window. Due to a clerical error while entering the FRN onto the on-line form an incorrect FRN was copied from the Funding Commitment

EXHIBIT I



Southwest Region School District

P.O. Box 90
574 Kenny Wren Road
Dillingham, AK 99576

(907) 842-5287 • Phone
(907) 842-5428 • Fax

Decision Letter [SEE EXHIBIT #2]. The incorrect FRN 839775 had previously been included on the original Form 486 (Applicant's Form Identifier: 486Y5-1). Therefore the correct FRN 814327 did not appear on the Form 486 (Applicant's Form Identifier 486Y5-2) [SEE EXHIBIT #3]. During the electronic certification process, no error message was displayed indicating a problem with the Form 486 being certified. No error message was displayed indicating that the on-line Form 486 contained duplicate FRN numbers. No error message was displayed indicating that the on-line Form 486 was being discarded from your system due to this duplicate. No Service Bureau personnel called to indicate a problem and that the system had not accepted and discarded the District's Form 486 (486Y5-2). Southwest Region Schools believed that the Form 486 (486Y5-2) had been saved into your electronic system. It was not discovered at the time of certification, that the printed certification page did not assign a new Form 486 Application Number, but in fact reverted back to the original Form 486 Application Number 195548.

As it has been common for forms to take months to receive feedback and notification from the SLD, and that the vendor was to bill the SLD directly for the discounted portion of FRN 814327, Southwest Region Schools believed that its responsibility in this matter had been accomplished.

On August 28, 2003, the vendor requested clarification on the date that the Form 486 had been submitted. It was at that time that Southwest Region Schools contacted your Service Bureau at 1-888-203-8100. Speaking with Georgia we were given Case # 1-1856114. It was explained at that time that your electronic system had no record of our second Form 486 (486Y5-2). From our discussion it appeared that no appeal could be brought about regarding the deletion of this form from your system, and that we would need to complete another 486, allow your decision to be made and enter an appeal after the subsequent notification.

Aleknagik

Clark's Point

On August 28, 2003, Southwest Region Schools correctly signed and certified a completed Form 486 (Applicant's Form Identifier 486Y5-3) [SEE EXHIBIT #4] and express mailed it to the SLD on 9/1/2003. On November 24, 2003 we received the SLD's official notification letter.

Ekwok

Koliganek

Today, we are appealing the SLD's decision and simply request that the true and exact Service Start Date for FRN 814327 be set to December 4, 2002 and that the Adjusted Funding Commitment be correctly calculated for the period of 12/4/2002 to 6/30/2003 for these services.

Manokotak

New Stuyahok

Southwest Region Schools has made every attempt to fully comply with the SLD's reporting requirements. Southwest Region Schools truthfully omitted the FRN in question from its original Form 486 to ensure that all funding requests were being reimbursed correctly. Southwest Region Schools made a good faith effort to notify the SLD following its established Form 486 procedures of the exact date of service start up. Southwest Region Schools has paid its undiscounted share of the costs. Clerical errors made in this process should not cause the

Portage Creek

Togiak

Twin Hills



Southwest Region School District

*P.O. Box 90
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District to financially suffer. Errors within the SLD's electronic certification system should not cause hardship to the District or vendor.

Southwest Region Schools fully received services as contracted with the vendor on FRN 814327 during the period of December 4, 2002 through June 30, 2003. The vendor is entitled to fully receive payment for those services rendered as committed by the SLD on the Funding Commitment Decision Letter Form 471 Application Number 311369 [SEE EXHIBIT #2] for the period of December 4, 2002 through June 30, 2003.

This decision by the SLD will cause undue hardship to the students of Southwest Region Schools. The District's budget correctly anticipated revenues from the E-Rate Program. The District does not have the resources to pay for these services above and beyond its approved and budgeted share.

Please take these facts into consideration and reinstate the Service Start Date for FRN 814327 to 12/04/2002 as requested. Adjust the Funding Commitment as necessary to fund the services for the period 12/04/2002 to 6/30/2003.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David J. Piazza".

David J. Piazza

Enclosure

Aleknagik

Clark's Point

Ekwok

Koliganek

Manokotak

New Stuyahok

Portage Creek

Togiak

Twin Hills



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2002-2003

April 13, 2004

David J. Piazza
Southwest Region School District
P.O. Box 90
574 Kenny Wren Road
Dillingham, AK 99576

Re: Billed Entity Number: 145573
471 Application Number: 311369
Funding Request Number(s): 814327
Your Correspondence Dated: November 25, 2003

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 2002 Form 486 Notification Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 814327
Decision on Appeal: **Denied in full**
Explanation:

- You are appealing SLD's decision to change the Service Start Date for FRN 814327 from December 4, 2002 to May 1, 2003. You state that services for FRN 814327 started on December 4, 2002 and you attempted to file a Form 486 via on-line on December 26, 2002, which was within the 120-day form-processing window. However, you state that due to a clerical error; you entered information in FRN 839755 that was already included in a previous Form 486 (Application number 195548) submitted in October of 2002, instead of FRN 814327. You argue that during the electronic certification process, you did not receive any warning, error message or contact from the Service Bureau personnel that you were submitting a duplicate FRN. You state that you did not discover at the time of certification that instead of having a new Form 486 Application number assigned to you, you had re-certified Form 486 Application number 195548. You

state that you submitted a Form 486 for FRN 814327 on August 28, 2003, after you were informed that SLD had no record of a Form 486 for this FRN. You request that the Service Start Date be changed to December 4, 2002, due to the clerical error.

- After thorough review and investigation of all relevant facts, the SLD determined that you should have filed your Form 486 for this funding request within 120-days, calculated from the issuance date of your Funding Commitment Decision Letter or the Service Start Date as indicated on the Form 486, whichever is later. You state that due to a clerical error, you mistakenly entered FRN 839755 instead of FRN 814327, but you were not informed of this error immediately. This does not constitute a waiver of the Form 486 filing deadline. It is the responsibility of the applicant to ensure that all Forms are submitted to SLD in a timely and correct manner. FCC rules do not allow SLD to waive the Form 486 120-day deadline. Therefore, the appeal is denied.
- Your Form 486 must have been received or postmarked no later than 120 days after the date of your Funding Commitment Decision Letter or no later than 120 days after the Service Start Date reported on your Form 486, whichever is later. The date of your Funding Commitment Decision Letter for FCC Form 471 # 311369 was September 9, 2002. The Service Start Date reported on your FCC Form 486 was December 4, 2002. The postmark date of your FCC Form 486 was August 29, 2003. Since your FCC Form 486 was postmarked more than 120 days after your Service Start Date or the date of your Funding Commitment Decision Letter, whichever is later, the SLD has revised your Service Start Date to the date 120 days before your FCC Form 486 postmark date and reduced your funding commitment amount based on the revised Service Start Date. The SLD does not have the authority to waive the Form 486 filing deadline, consequently your appeal is denied.
- FCC rules provide that FCC Form 486 certifications must be provided to the Administrator in accordance with existing program guidelines established by the Administrator. *See* 47 C.F.R. § 54.520(g). Existing program guidelines are explained in the Funding Commitment Decision letter. Your Funding Year 2002 Funding Commitment Decision letter notified you that the "Form 486 must be postmarked no later than 120 days after the Service Start Date featured on the Form 486 or no later than 120 days after the date of the Funding Commitment Decision Letter, whichever is later. If the Form 486 is postmarked after the later of those two dates, the date 120 days before the Form 486 postmark date will become the start date for discounted services." *See* Funding Commitment Decision Letter (Funding Year 2002: 07/01/2002 – 06/30/2003), page 2. Since your FCC Form 486 was postmarked more than 120 days after the Service Start Date you indicated on your FCC Form 486, the SLD has modified your service start date.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

Graphics Off



The Universal Service Administrative Company

[Home](#)[High Cost](#)[Low Income](#)[Rural Health Care](#)[Schools & Libraries](#)**Overview**

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[Corporate By-Laws](#)
[FCC Filings](#)
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[Form 499 Online Data Collection System](#)

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[Billing, Collections, & Disbursements](#)
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January 26, 2004 Minutes**Schools & Libraries Committee Quarterly Meeting**

The quarterly meeting of the Schools & Libraries Committee of the Board of Directors of the Universal Service Administrative Company (USAC) was held at the USAC office in Washington, DC, on Monday, January 26, 2004. Dr. Talbott, Chair of the Committee, called the meeting to order at 8:36 a.m. Eastern Time. Ms. Howard, Executive Assistant to the USAC CEO, called the roll.

Six of the seven members were present, representing a quorum:

Baker, Dave	Jackson, Jimmy
Bryant, Anne - Vice Chair - <i>by telephone</i>	Parrino, Cheryl
Campbell, Anne - <i>by telephone</i>	Talbott, Dr. Brian - Chair

One member was absent:

Christensen, Doug

Other Directors and Officers of the Corporation present:

Askin, Jonathan - USAC Board Member
Buller, Karen - USAC Board Member
Duff, Bridget - USAC Board Member
Eichler, Ed - USAC Board Member
Gumper, Frank - USAC Board Member
Barash, D. Scott - Vice President and General Counsel
Blackwell, Mel - VP, External Communications and Rural Health Care Division
Carmichael, Mark - Assistant Treasurer; VP, Finance and Financial Operations
Haga, Robert - Assistant Secretary; VP, Strategic Planning and USAC Operations
McDonald, George - VP, Schools and Libraries Division (SLD)
Scott, Wayne - VP, Internal Audit Division

Others present for the meeting:

Name	Company
Ayer, Catriona	USAC
Carroll, Kristy	USAC
Christie, Joe - <i>by telephone</i>	USAC

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EXHIBIT K

Crosac, Joe - <i>by telephone</i>	KPMG
Delmar, Teleshia	USAC
Falkowitz, Ed	USAC
Faunce, Donna - <i>by telephone</i>	USAC
Fenstermaker, John - <i>by telephone</i>	KPMG
Fitzgerald, Sara	Funds for Learning
Kraft, Michael	USAC
Lenhardt, Chris	USAC
Lipscomb, Greg	FCC
Long, Deborah	NECA
Lowe, Carrie	ALA
McCrone, Christina	USAC
Miller, Linda	USAC
Noran, John	USAC
Okudaira, Nobuko	USAC
Parry, John	NECA
Schultz, Cynthia	USAC
Vierheller, Mike - <i>by telephone</i>	KPMG

Action Items

- a1. Approval of the Minutes.** On a motion duly made and seconded, the Committee adopted the minutes as distributed of the Schools & Libraries Committee meetings of Wednesday, September 17, 2003; Tuesday, September 30, 2003; Monday, October 20, 2003; and Thursday, December 11, 2003. Mr. McDonald gave an update on actions taken regarding the resolution adopted in the December 11 minutes authorizing staff to deny, upon FCC approval, all FRNs for internal connections at discount percentages of less than 80 percent for Funding Year 2003 for lack of funding. The FCC subsequently issued the Third Report and Order, which, among other things, directed USAC to roll over \$420 million in unused funds from prior years into Funding Year 2003. Given that influx of funds, FCC staff did not concur with denying these applications and no action has been taken. SLD staff is working to determine the impact of the Third Report and Order and other recent FCC decisions on the funding available for Funding Year 2003. When that review is finished, SLD management will ask the Committee to revisit the funding and denial thresholds for Funding Year 2003.
- a2. Annual Election of Committee Chair and Vice Chair.** Ms. Parrino introduced this item and reminded the Committee that the terms would begin at the conclusion of the Board meeting on January 27, 2004.

On a motion duly made and seconded, the Committee adopted the following resolution:

RESOLVED, That the USAC Schools & Libraries Committee recommends that the USAC Board of Directors elect **Dr. Brian Talbott** as Chair and **Ms. Anne Bryant** as Vice Chair of the USAC Schools & Libraries Committee for the term of one year that shall begin at the conclusion of the January 2004 quarterly Board meeting and that shall conclude at the close of the January 2005 quarterly Board meeting.

- a3. Action on Six Schools and Libraries Support Mechanism Beneficiary Audit Reports.** Mr. Scott introduced this item and indicated that all six audit reports were rated as not compliant. He clarified that USAC management is no longer seeking the Federal Communications Commission's (FCC) clarification on one of the audits, as was indicated in the meeting materials, and that all the audit reports include a conclusion. A discussion then ensued on the question of from whom USAC should seek the recovery of funds in these cases. It was observed that even though the findings in several of these audits appear to be the applicants' errors, USAC is directed to seek recovery from the service providers. In response to a question on report number SL2003BE016, Mr. Scott confirmed that service providers usually do not allow the return of equipment that is already installed and configured.

Mr. Scott expressed his opinion that in the case of the audit report labeled SL2003BE016, both the applicant and the service provider could appropriately be held accountable for any necessary recovery of funds; and in the cases of audit reports labeled SL2003BE107, SL2003BE108, SL2003BE109, SL2003BE110, and SL2003BE011, the applicant appeared to be at fault. Mr. McDonald reported that the FCC is in the process of further rulemaking on this question and that the FCC is waiting for comments. Mr. Barash noted that once the FCC clarifies this issue, USAC would develop a process for determining the appropriate party from which to seek recovery of funds where necessary.

The Committee concurred to recommend to the USAC Audit Committee to deem these audits final with the caveat that USAC staff continues working with the FCC to determine from whom to seek the recovery of funds in each case. The Committee **DIRECTED** SLD management to make no assumption at this time as to the party from whom SLD staff should seek recovery of funds, and to keep the Committee informed on any guidance from the FCC on this matter.

On a motion duly made and seconded, the Committee adopted the following resolution:

RESOLVED, That the USAC Schools & Libraries Committee has reviewed Audit Reports labeled SL2003BE016, SL2003BE107, SL2003BE108, SL2003BE109, SL2003BE110, and SL2003BE011 together with management's response thereto, and recommends to the USAC Audit Committee that each such audit report be deemed final.

- a4. **Action on One Schools and Libraries Support Mechanism Investigative Audit Report and Three Schools and Libraries Support Mechanism Beneficiary Audit Reports – Confidential & Proprietary – Executive Session Recommended.** In accordance with the approved criteria and procedure for conducting USAC Board and Committee business in **Executive Session**, Mr. Barash recommended that the audit reports be discussed in **Executive Session** because discussion of the reports relates to investigatory matters or pending or contemplated enforcement action and public disclosure of the matters discussed therein could compromise law enforcement efforts.

On a motion duly made and seconded, the Committee adopted the following resolution:

RESOLVED, That the USAC Schools & Libraries Committee determines that discussion of audit reports of Schools and Libraries Universal Service Support Mechanism beneficiaries labeled SL2003IV102, SL2003BE020, SL2003BE021, and SL2003BE101 shall be conducted in **Executive Session**.

See **Executive Session** for a report of the discussion and action taken on this item.

- a5. **Action on One Schools and Libraries Support Mechanism Beneficiary Audit Performed by the Department of Interior, Office of Inspector General.** Mr. Scott introduced this item. He verified that this audit covered several years of funding. Ms. Parrino confirmed that since this was the first audit performed by the Department of Interior (DOI) Office of Inspector General (OIG), they wanted to audit several program years. Mr. Gumper indicated that if DOI OIG uncovers any problems that seem to be recurring from year to year, they would likely audit more beneficiaries for the affected funding years.

On a motion duly made and seconded, the Committee adopted the following resolution:

RESOLVED, That the USAC Schools & Libraries Committee has reviewed the Audit Report

labeled SL2003BE112 together with management's response thereto, and recommends to the USAC Audit Committee that the audit report be deemed final.

- a6. **Action on 24 Schools and Libraries Support Mechanism KPMG LLP Agreed-Upon Procedures Beneficiary Audit Reports.** Mr. Scott introduced this item. He noted that the issues related to technology plans for audit reports #25 and #26 as listed on Attachment A have now been resolved. It was observed that many of the beneficiaries deemed non-compliant involved small dollar amounts and that most of the errors seemed to be a result of insufficient staff resources at the schools to attend to the rules of the program rather than any intentional violations. Mr. Crostic of KPMG agreed with this observation.

On a motion duly made and seconded, the Committee adopted the following resolution:

RESOLVED, That the USAC Schools & Libraries Committee has reviewed the KPMG LLP agreed-upon procedures beneficiary reports listed on **Attachment A** together with management's response thereto, and recommends to the USAC Audit Committee that each such audit report be deemed final.

- a7. **Action on One Schools and Libraries Support Mechanism Operational Audit Report.** Mr. Scott introduced this item, which he said relates to the adequacy of the Schools and Libraries disbursement process, and noted that there were no exceptions. There was no further discussion.

On a motion duly made and seconded, the Committee adopted the following resolution:

RESOLVED, That the USAC Schools & Libraries Committee has reviewed Audit Report labeled SL2003OP106 together with management's response thereto, and recommends to the USAC Audit Committee that the audit report be deemed final.

- a8. **Approval of the Proposed Plan for Beneficiary, Operational, and Financial Audits of the Schools and Libraries Support Mechanisms for Inclusion in the 2004 USAC Internal Audit Plan – Confidential & Proprietary – Executive Session Recommended.** In accordance with the approved criteria and procedure for conducting USAC Board and Committee business in **Executive Session**, Mr. Barash recommended that discussion of this item be conducted in **Executive Session** because discussion of specific audit plans, internal controls, and/or confidential company data would constitute a "[d]iscussion of internal rules and procedures concerning the administration of the

universal service support mechanisms where discussion of the matter in open session would result in disclosure of confidential techniques and procedures that would compromise program integrity."

On a motion duly made and seconded, the Committee adopted the following resolution:

RESOLVED, That the USAC Schools & Libraries Committee determines that discussion of the proposed plan for beneficiary audits of the Schools and Libraries Support Mechanism for inclusion in the 2004 USAC Internal Audit Plan shall be conducted in **Executive Session**.

See **Executive Session** for a report of the discussion and action taken on this item.

- a9. **Approval of Schools and Libraries Support Mechanism Changes to Address Audit Findings – Confidential & Proprietary – Executive Session Recommended.** In accordance with the approved criteria and procedure for conducting USAC Board and Committee business in **Executive Session**, Mr. Barash recommended that discussion of this item be conducted in **Executive Session** because discussion of specific internal controls and/or audit procedures would constitute a "[d]iscussion of internal rules and procedures concerning the administration of the universal service support mechanisms where discussion of the matter in open session would result in disclosure of confidential techniques and procedures that would compromise program integrity."

On a motion duly made and seconded, the Committee adopted the following resolution:

RESOLVED, That the USAC Schools & Libraries Committee determines that the discussion of proposed program changes to address audit findings be conducted in **Executive Session**.

See **Executive Session** for a report of the discussion and action taken on this item.

- a10. **Approval of Invoicing Review Proposals To Improve Processing Time While Maintaining Disbursement Integrity.** Mr. McDonald introduced this item. He explained that in December 2000, the United States General Accounting Office (GAO) released a report that identified areas for improvement in the Schools and Libraries Support Mechanism application and invoicing process by USAC. Mr. McDonald said that, even prior to that report, USAC had contracted with PricewaterhouseCoopers (PwC) to perform an

independent review of the invoice review procedures used by SLD for the Schools and Libraries Support Mechanism. He said that many of the recommendations from PwC have been implemented, but that some of the changes increased the number of invoice line items that need to be reviewed, thus slowing down payment of some legitimate invoices. He said that SLD management analyzed six options for improving the efficiency and timeliness of payments while retaining the integrity of invoice reviews and is recommending the addition of 12 positions on NECA Services, Inc. (NSI) staff to meet this goal—six permanent positions and six temporary positions to specifically address the backlog.

A Committee member then asked specific questions about the details of the invoicing review process, and Mr. Barash suggested that in accordance with the approved criteria and procedure for conducting USAC Board and Committee business in **Executive Session**, discussion of the details of USAC's invoicing review process be conducted in **Executive Session** because discussion of specific internal controls and/or audit procedures would constitute a "[d]iscussion of internal rules and procedures concerning the administration of the universal service support mechanisms where discussion of the matter in open session would result in disclosure of confidential techniques and procedures that would compromise program integrity." The Committee concurred.

On a motion duly made and seconded, the Committee adopted the following resolution:

RESOLVED, That the USAC Schools & Libraries Committee determines that the discussion of USAC's invoice review process shall be conducted in **Executive Session**.

See **Executive Session** for a report of the discussion and action taken on this item.

a11. Approval of 2004 Annual and 2nd Quarter Schools and Libraries Programmatic Budgets.

Ms. Faunce, USAC's Budget & Finance Analyst introduced this item. Mr. McDonald pointed out that the 2004 annual budget includes funds to address agenda items #aSL09 and #aSL10 from today's meeting as well as a general contingency of 5 percent of the fixed price contract to cover unanticipated contract change orders. He also noted that \$7,000 has been earmarked in the 2nd Quarter 2004 budget for the possible travel of Schools & Libraries Committee members to NECA following the April 2004 quarterly meetings to NECA to review the Schools and Libraries Support Mechanism operations being performed there for USAC. Ms. Brvant stated that

even though the annual budget represents a substantial increase, administrative costs are still below 3 percent. Mr. Gumper cautioned that the budget is likely to increase even more going forward due to the likely increase in audits of Schools and Libraries Support Mechanism beneficiaries.

On a motion duly made and seconded, the Committee adopted the following resolutions:

RESOLVED, That the USAC Schools & Libraries Committee approves a 2nd Quarter 2004 budget for the Schools and Libraries Support Mechanism of \$10,699,000, and

RESOLVED FURTHER, That the USAC Schools & Libraries Committee approves a 2004 annual programmatic budget for the Schools and Libraries Support Mechanism of \$43,019,900.

a12. Approval of 2nd Quarter 2004 Schools and Libraries Support Mechanism Projections and Resolution on the January 30, 2004, FCC Filing.

Mr. McDonald introduced this item. He explained to the Committee the process used by USAC to collect the annual \$2.25 billion cap each funding year and then briefly reviewed the status of each funding year. He noted that this process might be modified in the future.

On a motion duly made and seconded, the Committee adopted the following resolution:

RESOLVED, That the USAC Schools & Libraries Committee, having reviewed at its meeting on January 26, 2004, a summary of the 2nd Quarter 2004 support mechanism demand estimates, including administrative costs, hereby directs USAC management to proceed with the required January 30, 2004, filing to the FCC on behalf of the Committee. Management may make adjustments if the variance is equal to or less than \$10.0 million or may seek approval from the Schools & Libraries Committee Chair to make adjustments if the variance is greater than \$10.0 million but no more than \$15.0 million.

a13. Solicit Ideas for April Committee Agenda.

Dr. Talbott reminded Committee members that they may offer suggestions for agenda items at each quarterly meeting or by contacting him or Mr. McDonald between quarterly meetings.

Information Items

i1. Schools and Libraries Support Mechanism

Update. Mr. McDonald reviewed the status of each

funding year and reported that Funding Year 1998 has the highest ratio of disbursements to commitments of any funding year. He said that for Funding Year 2004, over 95 percent of the applicants filing Forms 471 filed online. He noted that as a result of changes for Funding Year 2004, there would be many new rules that applicants and service providers need to understand. SLD staff posts all support mechanism rule changes on the SLD section of the USAC website. SLD staff also issued a new "blast email" to service providers and to the applicant email address in the 2003 Form 471 database and the 2004 Form 470 database to inform them of the recent process/rule changes. The blast email included links to the SLD section of the USAC website. Mr. McDonald said that feedback on the blast email has been positive. SLD staff also recently began using WebEx training as an outreach tool, and Mr. McDonald informed the Committee that Ms. Schultz, SLD Director of Service Provider Support, would be presenting a demonstration of WebEx at the end of the meeting. Regarding appeals, Mr. McDonald reported that the appeals team has been restructured and staff added, and they are working hard on processing the appeals.

i2. Report on Legislative and Media Activity.

Mr. Blackwell reported that USAC staff continues to work with GAO and the U.S. House of Representatives Committee on Energy and Commerce, Subcommittee on Investigations and Oversight on the continuing investigation into potential waste, fraud, and abuse in the Schools and Libraries Support Mechanism, and said that no date has been set for hearings yet but that he anticipates that hearings would occur before the end of the year. He noted that as part of its investigation, the Committee staff is visiting beneficiaries in Chicago and Puerto Rico.

i3. Status Report of USAC Schools and Libraries Support Mechanism Audits.

Mr. Scott reviewed the cumulative dollar effect of the KPMG audit reports and the randomly selected audits performed by USAC Internal Audit Division (IAD). The Committee **DIRECTED** USAC staff to separate out the audit findings between telecommunications, Internet, and internal connections. Mr. Scott reported that the DOI OIG continues to perform audits and one audit report from them would likely be ready for review at the April 2004 quarterly meeting.

i4. Status Report on Actions Taken on Final Audits Concerning the Schools and Libraries Support Mechanism.

Mr. Scott indicated to the Committee that given the additional number of audits currently being tracked by the IAD, it would be less cumbersome to only report on the audits in which all final actions have been taken, as opposed to the current layout. There was no objection from the Committee.

i5. Schools and Libraries Support Mechanism

a9. Schools and Libraries Support Mechanism

Timeline and Key Dates. For information only. No discussion held.

At 10:31 a.m., on a motion duly made and seconded, the Committee voted to move into **Executive Session** for the purpose of discussing the confidential and proprietary items as noted above. The Chair then recessed the meeting. At the call of the Chair, the Committee reconvened in **Executive Session** at 10:42 a.m. Ms. Howard called the roll at the request of the Chair.

Six of the seven members were present, representing a quorum:	
Baker, Dave	Jackson, Jimmy
Bryant, Anne - Vice Chair - <i>by telephone</i>	Parrino, Cheryl
Campbell, Anne - <i>by telephone</i>	Talbott, Dr. Brian - Chair
One member was absent:	
Christensen, Doug	

Executive Session

- a9. Approval of Schools and Libraries Support Mechanism Changes to Address Audit Findings - Confidential & Proprietary.** Mr. McDonald introduced this item and reported that these proposed changes are to address the issues that were raised in the audit findings from the 65 completed Schools and Libraries Support Mechanism beneficiary audits from Funding Year 2000. The Committee discussed different ways to better communicate the rules to the applicants through more standardization of forms and additional outreach efforts.

On a motion duly made and seconded, the Committee adopted the following resolution, *as amended (in italics and strikeout)*:

RESOLVED, That the USAC Schools & Libraries Committee accepts the recommendations of USAC management regarding proposed changes to the Schools and Libraries Support Mechanism in order to address audit findings, as presented to the Committee at its meeting of this date and directs USAC management to investigate the proposals for additional actions identified in the proposed changes and report back to the Committee ~~no later than~~ *at the April and July 2004 quarterly meetings* on the status of implementation of program changes.

- a4. Action on One Schools and Libraries Support Mechanism Investigative Audit Report and Three Schools and Libraries Support Mechanism**

Beneficiary Audit Reports – Confidential & Proprietary. Mr. Scott introduced this item and responded to questions about the audit findings in these reports.

On a motion duly made and seconded, the Committee adopted the following resolution:

RESOLVED, That the USAC Schools & Libraries Committee has reviewed Audit Reports labeled SL2003IV102, SL2003BE020, SL2003BE021, and SL2003BE101 together with management's response thereto, and recommends to the USAC Audit Committee that each such audit report be deemed final.

- a8. Approval of the Proposed Plan for Beneficiary, Operational, and Financial Audits of the Schools and Libraries Support Mechanisms for Inclusion in the 2004 USAC Internal Audit Plan – Confidential & Proprietary.** Mr. Scott introduced this item. He clarified that the percentage of the IAD budget allocated to conduct support mechanism beneficiary audits covers all the support mechanisms, not just Schools and Libraries.

On a motion duly made and seconded, the Committee adopted the following resolution:

RESOLVED, That the USAC Schools & Libraries Committee approves the proposed plan for beneficiary, operational, and financial audits of the Schools and Libraries Support Mechanism for 2004 as presented by the USAC Internal Audit Division and recommends that the USAC Audit Committee include the proposed audits in the 2004 USAC Internal Audit Plan.

- a10. Approval of Invoicing Review Proposals To Improve Processing Time While Maintaining Disbursement Integrity.** Mr. McDonald continued the discussion started in open session on this matter, explaining what occurs during the invoice review process to service providers that are put on watch.

On a motion duly made and seconded, the Committee adopted the following resolution:

RESOLVED, That the USAC Schools & Libraries Committee authorizes expenditure of \$1.687 million in 2004 associated with contract costs for additional NECA Services, Inc. staff to perform invoice review activities.

The Committee adjourned from **Executive Session** and reconvened in open session at 11:26 a.m. to report the discussions of the Committee during **Executive Session**.

Committee member Ms. Bryant left the meeting at this point.

i6. Miscellaneous.

- Ms. Schultz gave a WebEx presentation to the Committee.
- Dr. Talbott announced that this would be Ms. Parrino's last Schools & Libraries Committee meeting, as she would be stepping down as the CEO of USAC effective January 31, 2004. Dr. Talbott thanked Ms. Parrino on behalf of the Committee for her dedication, commitment, and leadership, and the Committee gave her a round of applause.

There being no further business, Mr. Talbott adjourned the meeting at 12:03 p.m.

Robert Haga
Assistant Secretary

Date

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